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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/096,560 06/12/98 BENNETT

R A00424 (AMT-9)

WM02/0802
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EXAMINER

CUMMING, W

ART UNIT

PAPER NUMBER

15

2684

DATE MAILED:

08/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/096,560

Applicant(s)

BENNETT ET AL.

Examiner

WILLIAM D. CUMMING

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

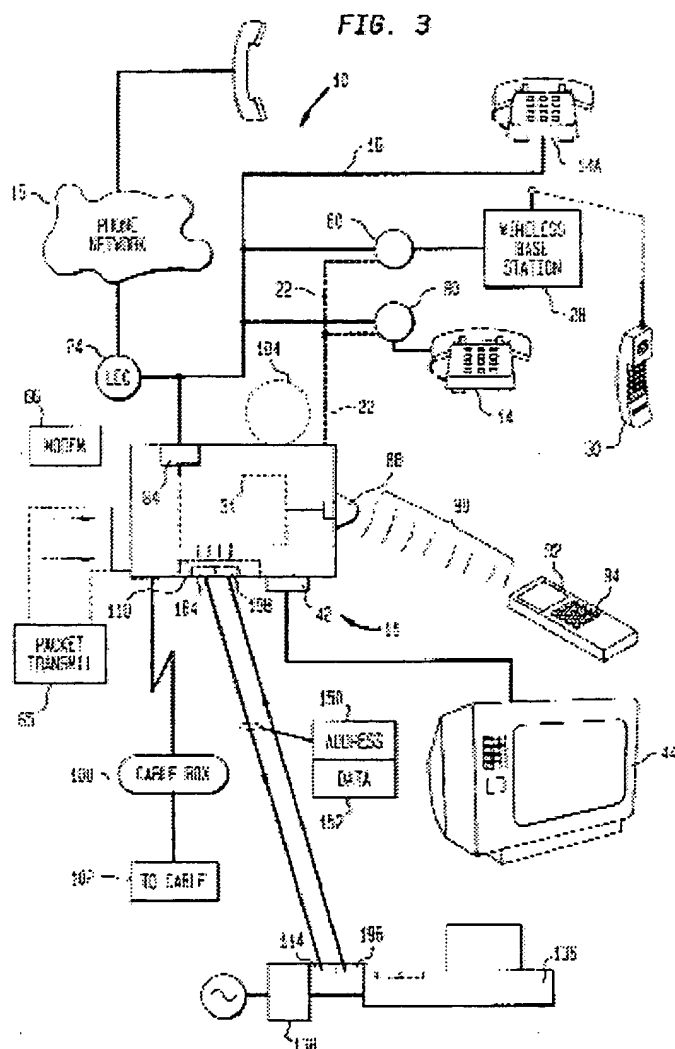
1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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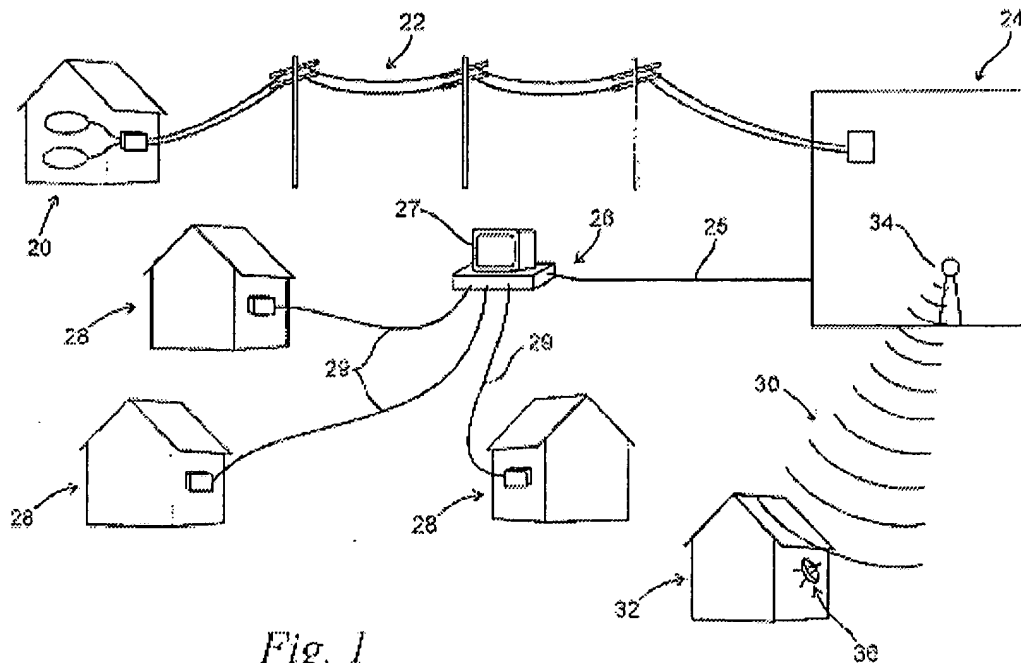
4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sizer, II, et al** in view of **Gorman** and admitted prior art.

Sizer, II, et al disclose all subject matter claimed, except for a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN.



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Gorman teaches the use of a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN (figure 1, #30, 32, 34, 36, *"Alternatively, the local loop may also include a wireless local loop (currently being deployed primarily in developing countries without existing communication infrastructure facilities and now available in the United States). The wireless local loop 30 provides communication from the central office 24 to the customer premises 32 without requiring new cable plant between the central office 24 and the customer premises 32. A wireless local loop 30 may use a transmitter 34 at the central office 24, transmitting microwave radio frequencies to a radio frequency receiver using an antenna 36 at the customer premises 32. The wireless local loop 30 can implement any of the ISDN, PRI, DSL, or high-capacity 24 channel T1 lines described above. In addition, fixed-satellite wireless communication systems allowing communication service to be directly received at the subscriber location from earth orbiting satellites are also available from companies such as Hughes Network Systems and Motorola Inc. Such systems are currently being deployed in developing countries."*) in a home gateway system for the purpose of providing a local loop in places which does not have an existing cable or telephone communication infrastructure facilities.



Hence, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN, as taught by **Gorman**, in the home gateway system of **Sizer, et al** in order to provide a local loop in places which does not have an existing cable or telephone communication infrastructure facilities.

Regarding smart card interface, voice processing system, speaker verification module and speech recognition, these are old and well known features of an alarm or security system and the Examiner also takes Official

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Notice as such in the Office action dated November 22, 2000 and now admitted prior art.

It would have been very obvious to incorporate the old and well known features like the smart card interface, voice processing system, speaker verification module and speech recognition in the prior art security system in order to the user to easily operate, like through verbal commands, the home security system.

"In considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418,420 (CCPA 1970). If justified, the examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient so to state. In re Malcolm, 129 F.2d 529, 54 USPQ 235 (CCPA 1942). If the applicants traverse such an assertion the examiner should cite a reference in support of his or her position. **If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement**

is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239

(CCPA 1943). A seasonable challenge constitutes a demand for evidence

made as soon as practicable during prosecution. Applicants have not seasonable challenge or traverse the well known statement during examination. If something is prior art, it is taken as being available as prior art against the claims. Admitted prior art can be used in obviousness rejections. In re Nomiya, 509 F.2d 566, 184 USPQ 607, 610 (CCPA 1975).

It has been held that the recitation that an element is "*capable of*" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Response to Arguments

5. Applicant's arguments filed July 2, 2001 have been fully considered but they are not persuasive.

Applicants' attorney on page 2, argues how LASERs are patentable. The examiner does not understand this argument since the current invention is towards a home gateway system for home automation and security.

Regarding arguments on page 3. Applicants' attorney failed to present arguments seasonably traversing the well-known statements made by the examiner in the Office action dated November 22, 2000.

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Because of this action, Applicants have now forfeit any rights to traverse the Official notice at a later date. Also, the examiner can cite **Storck, et al**, **Hoffberg, et al**, and **Launey, et al** show the old and well known and admitted smart card interface, voice processing system, speaker verification module and/or speech recognition with or for a home security and/or automation.

Terminal Disclaimer

6. The terminal disclaimer filed on July 2, 2001 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Unites States patent Application #09/061,833 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Storck, et al, **Launey, et al**, and **Hoffberg, et al** disclose the old and well known and admitted smart card interface, voice processing system, speaker verification module and/or speech recognition with or for a home security and/or automation.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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10. If applicants request an interview after this **final rejection**, prior to the interview, the intended purpose and content of the interview should be presented briefly, in writing.

Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration.

Interviews merely to **restate arguments** of record or to **discuss new limitations** which would require more than nominal reconsideration or new search will be denied.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 703-305-4394. The examiner can normally be reached on Monday through Thursday, 9:30 to 5:30, EDT.

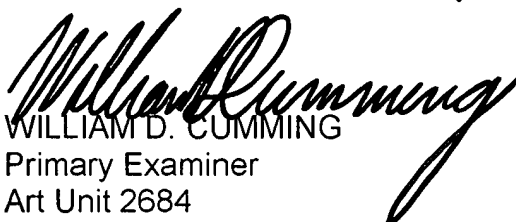
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **DAINIEL HUNTER** can be reached on 703-308-6732. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Art Unit: 2684

FINAL REJECTION 07/30/01

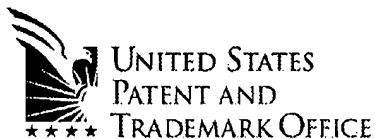
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.


WILLIAM D. CUMMING
Primary Examiner
Art Unit 2684

wdc

July 30, 2001



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